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August 27, 2007

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By e-filing

Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re ~~Finance Docket No 34802, PYCO Industries, Inc -- Alternative Rail Service --
South Plains Switching, Ltd Co~~

~~Finance Docket No 34844, PYCO Industries, Inc -- Feeder Line Acquisition --
South Plains Switching, Ltd Co~~

Finance Docket No 34889, PYCO Industries, Inc -- Alternative Rail Service --
South Plains Switching, Ltd Co

Finance Docket No 34890, PYCO Industries, Inc -- Feeder Line Application --
South Plains Switching, Ltd Co

Finance Docket No 34922, Keokuk Junction Railway Co -- Feeder Line
Application -- Lines of South Plains Switching, Ltd Co

Dear Mr. Williams

In view of the extensive delay in issuance of decisions in the above proceedings, South Plains Switching, Ltd Co (SAW) has requested that I clarify its position in relation to (1) the feeder line applications, and (2) the petitions for alternative rail service

SAW is opposed to the feeder line applications. There is no support for the findings in 49 U.S.C. § 10907(c) that are essential for a determination that public convenience and necessity permit involuntary sale of SAW's rail line. With the exception of a single excusable occasion resulting from a quickly-repaired locomotive breakdown, there is no evidence that when requested to provide service, SAW either failed to provide the service or unreasonably delayed in providing it. On the contrary, the record contains an explicit written offer by SAW to provide a second daily switch and weekend switching at no extra charge, that was not accepted by PYCO. Accusations that SAW "retaliated" by withholding services that PYCO was never legally entitled to in the first place is a smokescreen to obscure that PYCO's inability to have shipped in the volume desired was caused by its own inadequate plant trackage, not by inadequate SAW.

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service. The Board has never found that rail service is inadequate based on a single excusable locomotive failure. The Board's finding -- that without regard to the absence of evidence of actual poor service or even a threat of poor service to a shipper, that shipper's service is inadequate if it "fears" that it could get poor service in the future if it criticized its rail service provider -- is clearly contrary to law.¹¹

SAW is opposed to the petitions for alternative rail service. From November 23, 2006 to date, and continuing, alternative rail service has been provided in violation of the explicit requirement in 49 U.S.C. § 11102(a) that compensation for the use of SAW's tracks is to have been paid or adequately secured before an alternative service provider can begin to use those tracks. No such compensation has been determined, let alone paid or secured, for the use of SAW's tracks. SAW's request that alternative rail service be terminated on the basis of that glaring legal defect has been ignored. In addition to that statutory defect, the record does not support a finding that SAW provided inadequate rail service as to any identified traffic that would warrant alternative rail service.

There are many additional grounds for SAW's opposition to feeder line acquisition and alternative rail service, but the foregoing alone is sufficient from a legal standpoint to dictate denial of the feeder line applications and termination of alternative rail service.

Respectfully submitted,



Thomas F. McFarland

Attorney for South Plains Switching, Ltd. Co.

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cc All parties of record
James L. Gorsuch, Esq.
Messrs Larry Wisener
Dennis Olmstead

¹¹ Finance Docket Nos. 34844 and 34890, decision served July 3, 2006, at 5